

C. 5160/05

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPURWrit Petition No. 5077/2005
(DATE OF PRESENTATION 04.10.05)PETITIONERS

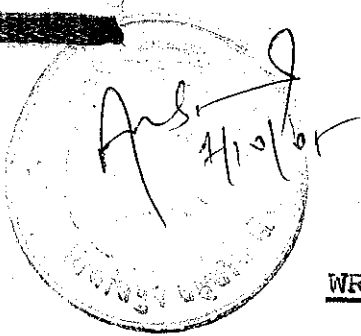
- :- / 1) Smt. Vimla Singh w/o D.N. Singh,
aged about 46 years, Staff Nurse,
Community Health Centre, Nawagarh,
District Durg (C.G.).
- 2) Vijay Pratap Singh Banjare,
S/o late S.L. Banjare, aged about
35 years, Assistant Grade-III,
Community Health Centre, Nawagarh,
District Durg (C.G.).

5168/05 -
P.R. No.
Presented by Shri. Pravin Tulysam
dated 4/10/05

VERSUSRESPONDENTS

- :- / 1) State of Chhattisgarh
Through- Department of Public
Health and Family Welfare
Department, D.K.S. Bhavan,
Raipur (C.G.).
- 2) The Chief Medical and Health
Officer, Durg (C.G.).
- 3) The Block Medical Officer,
Nawagarh, District Durg (C.G.).
- 4) The Director,
Health Services Chhattisgarh
Raipur (C.G.).

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION
OF INDIA.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No.: 5077/2005 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>21.10.2005</u> Shri M.K. Bhaduri, counsel for the petitioners and Shri Pankaj Shrivastava, Panel Lawyer for the State on advance copy. Heard. By way of this writ petition, the petitioners have challenged the validity of their transfer order dated 31.8.2005 (Annexure-P/2). By this order, the petitioner No. 1 has been transferred from Community Health Centre, Nawagarh to Community Health Centre, Gurur and the petitioner No. 2 has been transferred from Community Health Centre, Nawagarh to Community Health Centre, Dondi. The contention of learned counsel for the petitioners is that both the petitioners are office bearers of the registered Union and they should not have been transferred as per policy of the State. Learned counsel for the petitioners submits that the son of petitioner No. 2 is studying in Class-III in village Nawagarh and in mid-session transfer his studies would be affected. The Apex Court while dealing with the matter of <u>Kendriya Vidyalaya Sangathan -V- Damodar Prasad Pandey, 2004 AIR SCW 5563</u> referring to the various decisions has observed vide para 4 as follows: “Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any prescribed norms of principles governing the transfer (See <u>Ambani Kanta Ray Vs. State of Orrissa</u>). Unless the order of transfer is	

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आदेश पत्रक (पूर्वानुबद्ध)

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	vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. (See Union of India Vs. S.L. Abbas). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In Union of India & others Vs. Janardan Debanath & another, it was observed as follows: <i>"No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala-fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in National Hydroelectric Power Corpn. Ltd. Vs. Shri Bhagwan."</i> There is no doubt that the petitioners hold transferable posts. Learned counsel for the petitioners could not point out that the transfer of the petitioners have been affected on malafide or	

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आदेश पत्रक (पूर्वानुबद्ध)

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	they have been transferred in violation of any statutory rules applicable in case of the petitioners. I am not inclined to interfere with such order of transfer passed by the authority concerned. The petition has no merits. It is dismissed at this stage. So far as the personal difficulties and grounds of members of the union etc are concerned, the petitioners are free to file a representation before the concerned authority, which shall be disposed of by the concerned authority in accordance with law without being influenced by the observations made in this order. Certified copy as per rules.	Sd/- Sunil Kumar Sinha Judge

Veth

28/10/21